

Introduced by Senator Rosenthal

February 27, 1997

An act to amend Sections 1785.11, 1785.15, and 1785.17 of, and to add Sections 1747.55, 1747.82, and 1785.12.5 to, the Civil Code, relating to consumer credit.

LEGISLATIVE COUNSEL'S DIGEST

SB 930, as introduced, Rosenthal. Consumer credit.

(1) Existing law provides for the regulation of issuers of credit cards.

This bill would provide that no card issuer may maintain or store information regarding the account of the cardholder that the issuer determines to be incomplete, inaccurate, or based upon the fraudulent acts of a person other than the cardholder. This bill would require a card issuer to send a notice to a cardholder to confirm his or her change of address, as specified.

(2) Existing law provides for the regulation of consumer credit reporting agencies. Existing law authorizes a consumer credit reporting agency to furnish information for purposes of a specified credit transaction that is not initiated by the consumer only if the consumer authorizes the agency to furnish the consumer credit report to the person or the proposed transaction involves a firm offer of credit to the consumer and other prescribed requirements are met.

This bill would revise and recast this provision to authorize a consumer credit reporting agency to furnish a credit report in connection with a credit transaction or enforcement of a

support order, as specified, only upon authorization by the consumer, as specified.

(3) Existing law provides a defined consumer has the right to request and receive from the consumer credit reporting agency, either a decoded written version of the file on the consumer or a written copy of the file, with an explanation of any codes used. Existing law authorizes a charge for such disclosure, except as specified.

This bill would instead provide that the consumer has the right to request and receive a decoded written version of the file and would prohibit a charge for the first such disclosure in a one-year period. The bill would require a consumer credit reporting agency to send a notice to a cardholder to confirm his or her change of address, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1747.55 is added to the Civil
2 Code, to read:

3 1747.55. No card issuer may maintain or store
4 information regarding the account of the cardholder that
5 the card issuer determines to be incomplete, inaccurate,
6 or based upon the fraudulent acts of a person other than
7 the cardholder.

8 SEC. 2. Section 1747.82 is added to the Civil Code, to
9 read:

10 1747.82. Upon receipt of information that a
11 cardholder has changed his or her address, a card issuer
12 shall send a notice to the cardholder at his or her prior
13 address to confirm the change of address.

14 SEC. 3. Section 1785.11 of the Civil Code is amended
15 to read:

16 1785.11. (a) A consumer credit reporting agency
17 shall furnish a consumer credit report only under the
18 following circumstances:

19 (1) In response to the order of a court having
20 jurisdiction to issue such an order.



(2) In accordance with the written instructions of the consumer to whom it relates.

(3) To a person whom it has reason to believe:

(A) Intends to use the information in connection with a credit transaction, or entering or enforcing an order of a court of competent jurisdiction for support, involving the consumer as to whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer; or

(B) Intends to use the information for employment purposes; or

(C) Intends to use the information in connection with the underwriting of insurance involving the consumer, or for insurance claims settlements; or

(D) Intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider the applicant's financial responsibility or status; or

(E) Intends to use the information in connection with the hiring of a dwelling unit, as defined in subdivision (c) of Section 1940; or

(F) Otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer.

(b) A consumer credit reporting agency may furnish information for purposes of a credit transaction specified in subparagraph (A) of paragraph (4), ~~where it is a credit transaction that is not initiated by the consumer,~~ (3) of subdivision (a) only under the circumstances specified in paragraph (1) or (2), as follows:

(1) The consumer authorizes the consumer credit reporting agency to furnish the consumer credit report to the person.

(2) ~~The proposed transaction involves a firm offer of credit to the consumer, the consumer credit reporting agency has complied with subdivision (c), and the consumer has not elected pursuant to paragraph (1) of subdivision (c) to have the consumer's name excluded from lists of names provided by~~ *prohibit* the consumer

1 credit reporting agency ~~for purposes of reporting in~~
2 ~~connection with the potential issuance of firm offers of~~
3 ~~credit~~ *from furnishing information for purposes of a*
4 *credit transaction specified in subparagraph (A) of*
5 *paragraph (3) of subdivision (a).* A consumer credit
6 reporting agency may provide only the following
7 information pursuant to this paragraph:

8 (A) The name and address of the consumer.

9 (B) Information pertaining to a consumer that is not
10 identified or identifiable with a particular consumer.

11 Except as provided in paragraph (2) of subdivision (a)
12 of Section 1785.15, a consumer credit reporting agency
13 shall not furnish to any person a record of inquiries solely
14 resulting from credit transactions that are not initiated by
15 the consumer.

16 (c) (1) A consumer may elect to ~~have his or her name~~
17 ~~and address excluded from any list provided by a prohibit~~
18 ~~the~~ consumer credit reporting agency *from furnishing*
19 *information* pursuant to paragraph (2) of subdivision (b)
20 by notifying the consumer credit reporting agency, by
21 telephone or in writing, through the notification system
22 maintained by the consumer credit reporting agency
23 pursuant to subdivision (d), that the consumer does not
24 consent to any use of consumer credit reports relating to
25 the consumer in connection with any *credit* transaction
26 ~~that is not initiated by the consumer.~~

27 (2) An election of a consumer under paragraph (1)
28 shall be effective with respect to a consumer credit
29 reporting agency, and any affiliate of the consumer credit
30 reporting agency, on the date on which the consumer
31 notifies the consumer credit reporting agency.

32 (3) An election of a consumer under paragraph (1)
33 shall terminate and be of no force or effect following
34 notice from the consumer to the consumer credit
35 reporting agency, through the system established
36 pursuant to subdivision (d), that the election is no longer
37 effective.

38 (d) Each consumer credit reporting agency that
39 furnishes a ~~prequalifying~~ *consumer credit* report
40 pursuant to subdivision (b) in connection with a credit

1 transaction not initiated by the consumer shall establish
2 and maintain a notification system, including a toll-free
3 telephone number, that permits any consumer, with
4 appropriate identification and for which the consumer
5 credit reporting agency has a file, to notify the consumer
6 credit reporting agency of the consumer's election to
7 ~~have the consumer's name removed from any list of~~
8 ~~names and addresses provided by the consumer credit~~
9 ~~reporting agency, and by any affiliated consumer credit~~
10 ~~reporting agency,~~ pursuant to paragraph (2) of
11 subdivision (b). Compliance with the requirements of
12 this subdivision by a consumer credit reporting agency
13 shall constitute compliance with those requirements by
14 any affiliate of that consumer credit reporting agency.

15 (e) Each consumer credit reporting agency that
16 compiles and maintains files on consumers on a
17 nationwide basis shall establish and maintain a
18 notification system under paragraph (1) of subdivision
19 (d) jointly with its affiliated consumer credit reporting
20 agencies.

21 SEC. 4. Section 1785.12.5 is added to the Civil Code,
22 to read:

23 1785.12.5. Upon receipt of information that a
24 consumer has changed his or her address, a consumer
25 credit reporting agency shall send a notice to the
26 consumer at his or her prior address to confirm the
27 change of address.

28 SEC. 5. Section 1785.15 of the Civil Code is amended
29 to read:

30 1785.15. (a) A consumer credit reporting agency
31 shall supply files and information required under Section
32 1785.10 during normal business hours and on reasonable
33 notice. In addition to the disclosure provided by this
34 chapter and any disclosures received by the consumer,
35 the consumer has the right to request and receive all of
36 the following:

37 (1) ~~Either a~~ A decoded written version of the ~~file or a~~
38 ~~written copy of the~~ file, including all information in the
39 file at the time of the request, ~~with an explanation of any~~
40 ~~code used.~~

(2) A record of all inquiries, by recipient, which result in the provision of information concerning the consumer in connection with a credit transaction that is not initiated by the consumer and which were received by the consumer credit reporting agency in the six-month period immediately preceding the request for disclosure under this section.

(3) The recipients, including end users specified in Section 1785.22, of any consumer credit report on the consumer which the consumer credit reporting agency has furnished:

(A) For employment purposes within the two-year period preceding the request.

(B) For any other purpose within the six-month period preceding the request.

Identification for purposes of this paragraph shall include the name of the recipient or, if applicable, the fictitious business name under which the recipient does business disclosed in full. If requested by the consumer, the identification shall also include the address of the recipient.

(b) Files maintained on a consumer shall be disclosed promptly as follows:

(1) In person, at the location where the consumer credit reporting agency maintains the trained personnel required by subdivision (d), if he or she appears in person and furnishes proper identification.

(2) By mail, if the consumer makes a written request with proper identification for a copy of the file or a decoded written version of that file to be sent to the consumer at a specified address. A disclosure pursuant to this paragraph shall be deposited in the United States mail, postage prepaid, within five business days after the consumer's written request for the disclosure is received by the consumer credit reporting agency. Consumer credit reporting agencies complying with requests for mailings under this section shall not be liable for disclosures to third parties caused by mishandling of mail after such mailings leave the consumer reporting agencies.

1 (3) A summary of all information contained in files on
2 a consumer and required to be provided by Section
3 1785.10 shall be provided by telephone, if the consumer
4 has made a written request, with proper identification for
5 telephone disclosure.

6 (4) Information in a consumer's file required to be
7 provided in writing under this section may also be
8 disclosed in another form if authorized by the consumer
9 and if available from the consumer credit reporting
10 agency. For this purpose a consumer may request
11 disclosure in person pursuant to Section 1785.10, by
12 telephone upon disclosure of proper identification by the
13 consumer, by electronic means if available from the
14 consumer credit reporting agency, or by any other
15 reasonable means that is available from the consumer
16 credit reporting agency.

17 (c) "Proper identification," as used in subdivision (b)
18 means that information generally deemed sufficient to
19 identify a person. Only if the consumer is unable to
20 reasonably identify himself or herself with the
21 information described above, may a consumer credit
22 reporting agency require additional information
23 concerning the consumer's employment and personal or
24 family history in order to verify his identity.

25 (d) The consumer credit reporting agency shall
26 provide trained personnel to explain to the consumer any
27 information furnished him or her pursuant to Section
28 1785.10.

29 (e) The consumer shall be permitted to be
30 accompanied by one other person of his or her choosing,
31 who shall furnish reasonable identification. A consumer
32 credit reporting agency may require the consumer to
33 furnish a written statement granting permission to the
34 consumer credit reporting agency to discuss the
35 consumer's file in such person's presence.

36 (f) Any written disclosure by a consumer credit
37 reporting agency to any consumer pursuant to this
38 section shall include a written summary of all rights the
39 consumer has under this title and in the case of a
40 consumer credit reporting agency which compiles and

1 maintains consumer credit reports on a nationwide basis,
2 a toll-free telephone number which the consumer can use
3 to communicate with the consumer credit reporting
4 agency. The written summary of rights required under
5 this subdivision is sufficient if in substantially the
6 following form:

7 “You have a right to *annually* obtain a *free* copy of your
8 credit file from a consumer credit reporting agency. You
9 may be charged a reasonable fee not exceeding eight
10 dollars (\$8) *for each additional copy*. There is no fee,
11 however, if you have been turned down for credit,
12 employment, insurance, or a rental dwelling because of
13 information in your credit report within the preceding 60
14 days. The consumer credit reporting agency must
15 provide someone to help you interpret the information in
16 your credit file.

17 You have a right to dispute inaccurate information by
18 contacting the consumer credit reporting agency
19 directly. However, neither you nor any credit repair
20 company or credit service organization has the right to
21 have accurate, current, and verifiable information
22 removed from your credit report. Under the Federal Fair
23 Credit Reporting Act, the consumer credit reporting
24 agency must remove accurate, negative information
25 from your report only if it is over seven years old.
26 Bankruptcy information can be reported for 10 years.

27 If you have notified a credit reporting agency in writing
28 that you dispute the accuracy of information in your file,
29 the consumer credit reporting agency must then, within
30 30 business days, reinvestigate and modify or remove
31 inaccurate information. The consumer credit reporting
32 agency may not charge a fee for this service. Any
33 pertinent information and copies of all documents you
34 have concerning an error should be given to the
35 consumer credit reporting agency.

36 If reinvestigation does not resolve the dispute to your
37 satisfaction, you may send a brief statement to the
38 consumer credit reporting agency to keep in your file,
39 explaining why you think the record is inaccurate. The
40 consumer credit reporting agency must include your

1 statement about disputed information in a report it issues
2 about you.

3 You have a right to receive a record of all inquiries
4 relating to a credit transaction initiated in six months
5 preceding your request. This record shall include the
6 recipients of any consumer credit report.

7 You may request in writing that the information
8 contained in your file not be provided to a third party for
9 marketing purposes.

10 You have a right to bring civil action against anyone
11 who improperly obtains access to a file or knowingly or
12 willfully misuses file data.”

13 SEC. 6. Section 1785.17 of the Civil Code is amended
14 to read:

15 1785.17. (a) Except as otherwise provided, a
16 consumer credit reporting agency may impose a
17 reasonable charge upon a consumer, as follows:

18 (1) For making a disclosure pursuant to Section
19 1785.10 or 1785.15, the consumer credit reporting agency
20 may *not* charge a fee *for the first disclosure made within*
21 *a one-year period, but may charge a fee not exceeding*
22 *eight dollars (\$8) for each subsequent disclosure within*
23 *that period.*

24 (2) For furnishing a notification, statement, or
25 summary, to any person pursuant to subdivision (h) of
26 Section 1785.16, the consumer credit reporting agency
27 may charge a fee not exceeding the charge that it would
28 impose on each designated recipient for a consumer
29 credit report, and the amount of the charge shall be
30 indicated to the consumer before furnishing the
31 notification, statement, or summary.

32 (b) A consumer credit reporting agency shall make all
33 disclosures pursuant to Sections 1785.10 and 1785.15 and
34 furnish all consumer reports pursuant to Section 1785.16
35 without charge, if requested by the consumer within 60
36 days after receipt by the consumer of a notification of
37 adverse action pursuant to Section 1785.20 or of a
38 notification from a debt collection agency affiliated with
39 the consumer credit reporting agency stating that the

1 consumer's credit rating may be or has been adversely
2 affected.

3 (c) A consumer credit reporting agency shall not
4 impose any charge for (1) providing notice to a consumer
5 required under Section 1785.16 or (2) notifying a person
6 pursuant to subdivision (h) of Section 1785.16 of the
7 deletion of any information which is found to be
8 inaccurate or which can no longer be verified, if the
9 consumer designates that person to the consumer credit
10 reporting agency before the end of the 30-day period
11 beginning on that date of notice under subdivision (d) of
12 Section 1785.16.

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